

ESTTA Tracking number: **ESTTA229252**

Filing date: **08/08/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Yakira, LLC
Granted to Date of previous extension	08/13/2008
Address	40 West 23rd Street New York, NY 10010 UNITED STATES
Correspondence information	Leigh Ann Lindquist Sughrue Mion, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3212 UNITED STATES mperry@sughrue.com, tm@sughrue.com Phone:2026637409

Applicant Information

Application No	77298884	Publication date	04/15/2008
Opposition Filing Date	08/08/2008	Opposition Period Ends	08/13/2008
Applicant	TAA APPAREL INC 5TH FLOOR 48 WEST 37 STREET NEW-YORK, NY 10018 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 2007/06/01 First Use In Commerce: 2007/06/01 All goods and services in the class are opposed, namely: Apparel made in whole or in part of organic material, namely, Bathing suits for men, Coats for men and women, Footwear for men and women, Men and women jackets, coats, trousers, vests, Men's socks, Men's suits, women's suits, Knit shirts, Knitted caps, Camp shirts, Dress shirts, Long-sleeved shirts, Shirts, Short-sleeved or long-sleeved t-shirts, Cargo pants, Denims, Pants, Sweaters, Denim jackets, Jackets, Ladies' suits, Swim wear for gentlemen and ladies, Underwear, namely, boy shorts

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2516031	Application Date	01/29/1998
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Registration Date	12/11/2001	Foreign Priority Date	NONE
Word Mark	ECKO UNLTD.		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1997/01/02 First Use In Commerce: 1997/01/03 mens, women's and children's sportswear and outerwear, namely, coats, shirts, T-shirts, sweatshirts, pants, jackets, shorts and vests		

Attachments	540000 Notice of Opposition - EK-GO GREEN ORGANIC APPAREL.pdf (5 pages)(148485 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Leigh Ann Lindquist/
Name	Leigh Ann Lindquist
Date	08/08/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Serial No.: 77/298,884

Yakira, L.L.C.,

Opposer,

v.

TAA Apparel, Inc.,

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

Yakira, LLC, a New Jersey limited liability company with a business address of 40 W. 23rd Street, New York, NY 10010 (“Opposer”) believes that it will be damaged by registration of the mark EK-GO GREEN ORGANIC APPAREL and design (the “EK-GO Mark”) which is the subject of Application Serial No. 77/298,884 filed by TAA Apparel Inc. (“Applicant”) and hereby opposes registration of said mark.

As grounds for opposition, it is alleged that:

1. Opposer and its related companies have for many years designed, produced, distributed, and sold clothing bearing its well known trademarks ECKO UNLTD.

2. Since at least as early as January 1997, and long prior to any date that Applicant can claim as a date it first used EK-GO Mark, Opposer, by itself and/or

through its related companies, began to use and has continuously used the trademark ECKO UNLTD. through out the United States and internationally for clothing products.

3. Opposer registered the trademark ECKO UNLTD. with the United States Patent and Trademark Office for “men’s, women’s and children’s sportswear and outerwear, namely coats, shirts, T-shirts, sweatshirts, pants, jackets, shorts and vests”, and the mark issued as Registration Number 2,516,031. The registration has become incontestable as provided by 15 U.S.C. § 1065.

4. As a result of Opposer’s long, continuous use and extensive sales, promotion and advertising of its products bearing the ECKO UNLTD. trademark, the trademark ECKO UNLTD. has become well known and famous as a trademark for clothing whose quality is controlled by Opposer.

5. Notwithstanding Opposer’s long prior use of its trademark ECKO UNLTD., on October 8, 2007, Applicant filed an application to register the EK-GO Mark for goods identified as: “Apparel made in whole or in part of organic material, namely, Bathing suits for men, Coats for men and women, Footwear for men and women, Men and women jackets, coats, trousers, vests, Men’s socks, Men’s suits, women’s suits, Knit shirts, Knitted caps, Camp shirts, Dress shirts, Long-sleeved shirts, Shirts, Short-sleeved or long sleeved t- shirts, Cargo pants, Denims, Pants, Sweaters, Denim jackets, Jackets, Ladies’ suits, Swim wear for gentlemen and ladies, Underwear, namely, boy shorts” all in International Class 25 and claimed a date of first use for all of the goods as of June 1, 2007. The application was given Application Serial No. 77/298,884, and the application was published for Opposition on April 15, 2008. Opposer has been granted extensions of the Opposition period to August 13, 2008.

6. Applicant's mark as published for Opposition and approved for registration disclaims the words "Green" and "Organic Apparel" indicating Applicant's acknowledgement that those words lack source identification and emphasizing the primary significance and commercial impact of the words "EK-GO" in Applicant's mark.

7. When Applicant's mark and goods are compared to Opposer's mark and goods it is readily apparent that there is no difference in the pronunciation of the commercially significant and protectable terms in the respective marks ("ECKO" and "EK-GO") and the goods are the same or similar and competitive thereby increasing the likelihood that confusion will occur from the registration and use by Applicant of Applicant's mark.

8. Opposer believes and therefore alleges that the use and registration of the EK-GO Mark covered by Application Serial No. 77/298,884 will damage Opposer, for the reasons, among others, that:

- a) the goods are the same or similar and are competitive;
- b) the goods are such that they are sold through the same trade channels;
- c) customers and purchasers of the respective goods are likely to be the same or similar class of purchaser;
- d) customers and purchasers of the parties will be confused, mistaken or deceived as to the source or origin of the goods sold under the mark opposed herein;
- e) customers and purchasers of the respective goods will assume, contrary to fact, that Applicant's goods are associated with, sponsored by, approved by or otherwise related to or affiliated with Opposer, when such is not the case.

f) Applicant's mark in Serial No. 77/298,884 so resembles Opposer's previously used and registered trademark ECKO UNLTD. as to be likely, when applied to the goods set forth in Applicant's application, to cause confusion, mistake or to deceive within the meaning of 15 U.S.C. §1052(d).

g) Applicant's mark in Serial No. 77/298,884 dilutes Opposer's famous ECKO UNLTD. trademark by blurring the uniqueness of Opposer's mark as identifying the products and services of Opposer.

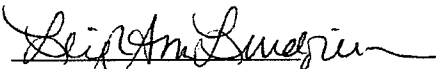
WHEREFORE, Opposer respectfully prays that this opposition be sustained and that registration to Applicant be refused.

Please charge the \$300 opposition fee to the undersigned's Deposit Account No. 19-4880. Please charge any deficiency or credit any overpayment to Deposit Account No. 19-4880 as well.

Respectfully submitted,

YAKIRA, L.L.C.

By:



W. Mack Webner

Leigh Ann Lindquist

Attorneys for Opposer

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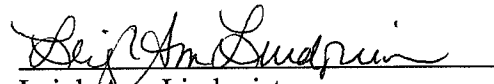
Fax: (202) 293-7860

Date: August 8, 2008

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **NOTICE OF OPPOSITION** has been mailed via First Class Mail this 8th day of August, 2008, to:

TAA Apparel Inc
48 W 37th St Fl 5
New York, NY 10018-7321


Leigh Ann Lindquist